

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Labour Department – Appointment of employees to the posts organized into local cadres under the A.P. Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Implementation of the orders of Hon'ble High Court in W.P.Nos.6068 and 6123 of 2004 – Orders – Issued.

LABOUR EMPLOYMENT TRAINING AND FACTORIES (LAB.IV) DEPARTMENT

G.O.Ms.No. 60

Dated:17.07.2010.

Read the following:-

- 1) G.O.Ms.No.72, Labour Employment Nutrition and Technical Education (Lab.IV) Department, dated 25.02.1986.
- 2) G.O.Ms.No.170, Labour Employment Nutrition and Technical Education (Lab.IV) Department, dated 28.05.1986.
- 3) G.O.Ms.No.14, Labour Employment and Training (Lab.IV) Department, dated 26.11.1994.
- 4) G.O.Ms.No.22, Labour Employment Training and Factories (Lab.IV) Department, dated 09.05.1996.
- 5) Orders of the Hon'ble Supreme Court of India, dated 07.11.2001.
- 6) Orders of the Hon'ble A.P. Administrative Tribunal, dated 27.03.2003 in O.A.No.1854 of 1997 and Batch cases.
- 7) Orders of Hon'ble High Court of Andhra Pradesh, dated 09.03.2007 in W.P.Nos.6068 of 2004 and Batch.
- 8) Contempt Case No.151/2010 in W.P.No.6123 of 2004 filed by Sri K. Venkateswara Rao.
- 9) Contempt Case No.1271/2007 in W.P.No.6123 of 2004 filed by Sri S. Sada and others.

ORDER:

In the G.O. first read above, the Special Rules governing the post of Assistant Labour Officers were issued. According to Rule 2 of the said special rules, the Senior Assistant / Senior Stenographers belonging to Factories and Boilers Departments are also eligible for appointment by transfer to the post of Assistant Labour Officer. The post of Assistant Labour Officer was organized as a zonal cadre post as per para 3 (3) of the A.P. Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975, popularly known as the Presidential Order. The Ministerial employees of the Labour Department challenged the Rules issued in the G.Os. first and second read above before the Hon'ble Administrative Tribunal. A full Bench of the Hon'ble Administrative Tribunal allowed the petitions and declared that the impugned rules to the extent they enable the Ministerial employees of the Factories and Boilers Department or any other Department to be considered for appointment to the posts in Labour Department are violative of paras 3 and 5 of the Presidential Order and, therefore, void. Sri V. Jagannadha Rao and others have filed Special Leave Petition in the Supreme Court against the orders of the Hon'ble Administrative Tribunal.

2. In the meanwhile, in the G.O. third read above, the Special Rules for A.P. Labour Subordinate Service were issued. In the said rules, a provision was made for appointment by transfer of the Senior Assistants and Senior Stenographers in

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the A.P. Ministerial Service, working in the Head Offices and Subordinate Offices of the Labour Department, Factories Department and Boilers Department, as Assistant Labour Officer and in the G.O. fourth read above, the cycle for appointment of the Assistant Labour Officer in each unit of appointment was prescribed. The Ministerial staff working in Subordinate offices filed a batch of O.As in the Hon'ble Andhra Pradesh Administrative Tribunal, questioning the validity of the orders issued in the G.Os third and fourth read above, to the extent of providing channel to the Senior Assistants and Senior Stenographers working in the Head Office for appointment by transfer as Assistant Labour Officer for the reason that, inclusion of other categories from outside the Zone in the feeder channel for the purpose of promotion or appointment by transfer offends the provisions in para-3 (3) and 5 (1) of the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 (the Presidential Order).

3. While the O.As were pending on the file of Hon'ble A.P. Administrative Tribunal for adjudication, in the reference fifth read above, the Hon'ble Supreme Court of India pronounced judgment on 07.11.2001, in Appeal (Civil) 9643-9644 of 1995 dismissing the Appeals and upholding the judgment of the Hon'ble Administrative Tribunal.

4. Based on the law laid down by the Hon'ble Supreme Court in the judgment in V. Jagannadha Rao Vs. State of A.P. "AIR 2002 SC 77", the Hon'ble Andhra Pradesh Administrative Tribunal in its order dated 27.03.2003, allowed the O.A.Nos.1854 of 1997 & Batch and set aside the rules framed in G.O.Ms.No.14, Labour Employment and Training (Lab.IV) Department, dated 26.11.1994 as amended in G.O.Ms.No.22, Labour Employment Training and Factories (Lab.IV) Department, dated 09.05.1996, to the extent that they provide a channel for the Senior Assistants and Senior Stenographers in A.P. Ministerial Services working in the Head Office of the Labour, Factories and Boiler Departments and Subordinate Offices in the Factories and Boilers Department for appointment by transfer to the post of Assistant Labour Officer and related provisions provided for quota and rotation etc., to these categories. The Hon'ble A.P. Administrative Tribunal has further directed that any action taken in compliance with these Rules till 07.11.2001 shall not be disturbed so as to result in reversion of any employee from the post to which he has been promoted under these rules.

5. Aggrieved by the said orders of the Hon'ble A.P. Administrative Tribunal, Sri G. Raja Babu has filed W.P.No.6068 of 2004 and Sri S. Sada and seven others have filed W.P.No.6123 of 2004 in the Hon'ble High Court of A.P., praying to quash that part of the judgment of the Hon'ble Tribunal in O.A.No.1854 of 1997 and Batch, dated 27.03.2003, directing that any action taken in compliance with these Rules till 07.11.2001 shall not be disturbed so as to result in reversion of any employee from the post to which he has been promoted under these rules. Sri B. Chandrasekhar and another working in Head Office have filed W.P.No.16890 of 2006 praying to direct the respondents to consider the claims of all the employees working in the Directorate for their appointment by transfer and promotion to the post of Assistant Labour Officer in all the zones.

6. In its common judgment, dated 09.03.2007, the Hon'ble High Court of A.P. allowed the Writ Petition Nos. 6068 and 6123 of 2004 and dismissed the W.P.No.

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16890 of 2006. The Hon'ble High Court held that "the law laid down by the Supreme Court must be held to be the law from the inception, unless the Supreme Court itself indicates that its decision will be operative prospectively. It is not open for Courts / Tribunals to apply the law laid down by the Supreme Court only from the date on which the judgment came to be passed. In the absence of any direction by the Supreme Court in V. Jagannadha Rao, that the law laid down therein is prospective in operation, it was not open to the Tribunal to hold that the law would apply prospectively only from 07.11.2001 i.e., from the date of the judgment in V. Jagannadha Rao case. The order of the Tribunal, to the limited extent that the judgment in V. Jagannadha Rao case was held applicable only from 07.11.2001, must, accordingly, be set aside".

7. In view of the law laid down by the Apex Court in case of V. Jagannadha Rao Vs. State of Andhra Pradesh, in U.O.No.44232-B/SPF.A/2002, dated 15.02.2003, the General Administration Department have issued instructions that the employees working in Heads of Departments and Secretariat shall not be promoted / appointed by transfer to the localized posts.

8. Government, having considered the orders of Apex Court in the above said case, observed that to have the benefit of the administrative skills, the employees in the Departments of Secretariat / Heads of Departments are appointed by transfer to the various categories of posts at the field level and similarly, the persons appointed at the field level are taken to the offices of the Heads of Departments and also to the Departments of Secretariat, in the light of the repercussions of the said judgment on the administration, the Government have decided to request the Government of India to provide for appointment by transfer of the personnel working in the Departments of Secretariat and Heads of Departments to the posts at field level (Localized) by way of amendment to para 5 (2)(a) of the Andhra Pradesh Public Employment (Organization of Local Cadres & Regulation of Direct Recruitment) Order, 1975 and accordingly, a proposal was submitted to the Government of India, Ministry of Home Affairs. The issue is pending with the Government of India.

9. Government, having regard to the judgments of the Courts and also to avoid further legal complications, decided that the orders of Hon'ble High Court in W.P.No.6068 of 2004 & Batch, dated 09.03.2007 be implemented. Accordingly, Government direct the Commissioner of Labour, Andhra Pradesh shall implement the orders of the Hon'ble A.P. Administrative Tribunal dated 27.03.2003 in O.A.No.1854 of 1997 and Batch cases and the Orders of Hon'ble High Court of Andhra Pradesh, dated 09.03.2007 in W.P.Nos.6068 of 2004 and Batch and to review the appointments made since 1986 i.e. inception of the Special Rules issued in the G.O. first read above and report compliance.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

BHANWAR LAL
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Labour, Andhra Pradesh, Hyderabad.
Copy to: General Administration (SPF) Department.
S.F./S.C.

//FORWARDED :: BY ORDER//

SECTION OFFICER

